

**CITY OF ALAMEDA PLANNING BOARD
DRAFT RESOLUTION**

A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF ALAMEDA APPROVING PUBLIC ART APPLICATION FOR WARMINGTON RESIDENTIAL CALIFORNIA CB07-0796, AT GRAND MARINA.

WHEREAS, an application was made on August 2, 2011, by Warmington Residential California, to provide onsite public art at Grand Marina; and

WHEREAS, the application was accepted as complete on August 23, 2011; and

WHEREAS, the proposal was reviewed for compliance with the requirements of the Public Art Ordinance by the Community Development Department; and

WHEREAS, the Community Development Department found the application to be in compliance the Public Art Ordinance; and

WHEREAS, the Planning Board has been advised that, subject to meeting City standards and requirements, the proposed use would conform to the adopted Public Art Ordinance; and

WHEREAS, the project is Categorically Exempt under Section 15301 of the CEQA Guidelines, and

WHEREAS, the Planning Board held a public meeting on this application on September 26, 2011 and has examined all pertinent submittals and documents; and

WHEREAS, the Planning Board has made the following findings regarding the project:

Inherent Artistic Quality: The proposed metal sculptures are consistent with the objectives, goals, and program eligibilities of the Public Art Ordinance.

Context: The waterfront theme of the sculptures titled "Portal" and "Nautilus" are compatible with the estuary site and history of a working waterfront. Nautilus stands 5 feet wide by 7 feet high and will be installed in an existing landscaped area. Portal stands 9.5 feet wide by 14 feet high as installed in a proposed 14 foot diameter landscaped seat wall. The landscaping, pedestrian-scaled size, location, and orientation of the sculptures are also appropriate for the site and will enhance the streetscape.

Media: The sculptures are appropriate and consistent with the intent of the

Public Art Ordinance criteria.

Permanence: The sculpture's finish, material, attachment methods, size, and sheer weight go towards its permanence and the property owner, through conditions of approval is required to maintain it.

Ability to Maintain: The proposed artwork will be maintained and protected by the owners, as required by the conditions of approval. Only minimum maintenance is required of the metal and theft deterrence installation methods have been utilized. The sculpture's placement allows for easy maintenance because it can be easily accessed for cleaning.

Public Safety and Accessibility: Installation of the artwork will comply with building codes and Americans with Disabilities Act (ADA) requirements. The artwork is permanently and securely mounted, surrounded by landscaping, and not located directly in the path of pedestrian travel; it shall not pose a public safety hazard.

Diversity: The sculptures are an expression of the diverse interests reflected in Alameda, including ties to our historic Navy ties and working waterfront and is classic yet innovative application of this particular style of art. The artist, Jill Turman, is a bay area local and a traditional blacksmith with a studio in Alameda.

Feasibility: The project is feasible and staff finds that the proposed public art will be well received by the community because it enlivens and complements the public waterfront.

BE IT RESOLVED THAT, the project is exempt from the California Environmental Quality Act (CEQA) pursuant to the CEQA guideline section 15301 - Existing Facilities.

BE IT FURTHER RESOLVED THAT the Planning Board of the City of Alameda hereby approves the Public Art Application dated September 26, 2011 and attached to this resolution as Exhibit A pursuant to Alameda Municipal Code Section 30-65, subject to compliance with the following conditions:

- (1) Compliance with Laws: The applicant shall comply with all federal, state and local laws and shall file with relevant federal, state and local agencies for required permits. The applicant shall comply with all conditions of such permits. Material violation of any of those laws in connection with the use will be cause for revocation of the permit. All required Federal, State, regional, and local permits shall be obtained prior to occupancy.
- (2) Notice of Ceremonies: The applicant shall notify the Community Development Department regarding any unveiling or dedication ceremonies for the public art

project. An unveiling or dedication is strictly optional. In the event the applicant chooses to conduct an unveiling or dedication, City staff shall provide the applicant with an invitation list of City Council Members, Planning Board members, Public Art Commission Members and other appropriate guests. City staff shall work with the applicant to promote press opportunities and public interest in the public art project.

- (3) Maintenance: The current property owner is responsible for maintaining the artwork including repairs should it be damaged or destroyed. The maintenance and long-term management of the artwork is not the responsibility of the City.
- (4) Failure to Maintain: City staff will regularly inspect public art installations for damage or maintenance concerns. Current property owners will be informed of inspection results for repair. Property owners will be subject to code enforcement for failure to comply.
- (5) Signage: Applicant shall be required to obtain approval from the Community Development Department of identification signage that shall be developed in compliance with the Public Art Identification Signage Guidelines.
- (6) Acknowledgement of Conditions: The applicant shall acknowledge in writing all of the conditions of approval and must accept this permit subject to those conditions and with full awareness of the provisions of Chapter 30 of the Alameda Municipal Code in order for this permit to be exercised.
- (7) HOLD HARMLESS: The applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Alameda, its Redevelopment Agency, the Alameda City Planning Board and their respective agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Alameda, Alameda Redevelopment Agency, Alameda City Planning Board and their respective agents, officers or employees to attack, set aside, void or annul, an approval by the City of Alameda, the Planning and Building Department, Alameda City Planning Board, the City of Alameda Redevelopment Agency or City Council relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

NOTICE. No judicial proceedings subject to review pursuant to California Code of Civil Procedure Section 1094.5 may be prosecuted more than ninety (90) days following the date of this decision plus extensions authorized by California Code of Civil Procedure Section 1094.6

NOTICE. The conditions of project approval set forth herein include certain fees and other exactions. Pursuant to Government Code Section 66020 (d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and exactions. The applicant is hereby further notified that the 90-day appeal period, in which the applicant may protest these fees and other exactions, pursuant

to Government Code Section 66020 (a) has begun. If the applicant fails to file a protest within this 90-day period complying with all requirements of Section 66020, the applicant will be legally barred from later challenging such fees or exactions.

The decision of the Planning Board shall be final unless appealed to the City Council, in writing and within ten (10) days of the decision, by filing with the Planning and Building Department a written notice of appeal stating the basis of appeal and paying the required fees.

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